

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DAVID E. CALLAHAN,

)

)

Plaintiff,

)

)

-vs-

) Case No. CIV-20-1175-F

)

OKLAHOMA DEPARTMENT OF
CORRECTIONS,

)

)

Defendant.

ORDER

On January 29, 2021, the magistrate judge entered a Report and Recommendation in this matter. Doc. no. 8. The Report recommends dismissal of this action without prejudice based on plaintiff's failure to comply with an order to cure deficiencies by failing to submit the appropriate form to initiate a civil action and by failing to either pay the filing fee or seek leave to proceed without prepayment of fees. *Id.*, p. 3. The Report found plaintiff's failure to comply, combined with the court's attempt to manage and control its caseload, warranted dismissal without prejudice. *Id.*

Plaintiff then submitted a motion, doc. no. 9, which was filed by the clerk on February 23, 2021. In its order of February 24, 2021, the court construed doc. no. 9 as a motion for an extension of time within which to comply with the magistrate's order to cure deficiencies, as well as an objection to the Report on the ground that plaintiff did not have sufficient time to comply with the magistrate's order to cure deficiencies. Doc. no. 10, p. 2. The court granted the motion, providing plaintiff with a ninety-day extension. *Id.* The court noted the objection was moot because it was based on plaintiff's need for additional time and additional time had been granted. *Id.*

Additional motions for extensions were subsequently filed by plaintiff, all of which were granted, most recently on June 8, 2021. Doc. no. 14. In the June 8, 2021 order, the court advised plaintiff the court intended to grant no more extensions. *Id.*¹ The June 8 order further advised that if all deficiencies identified by the magistrate judge were not cured within thirty days, this action would be dismissed without prejudice as recommended in the Report. *Id.*

Since then, the court has received three more motions for extensions from plaintiff. Doc. nos. 15, 16 and 17. These motions present reasons why plaintiff contends he has been unable to cure the deficiencies identified by the magistrate judge. He argues, for example, that prison officials have not provided him with access to documents and resources. He also argues that his sister has been unable to pay the filing fee on his behalf. These motions for further extensions are **DENIED**.

After careful review and numerous extensions of time granted to the plaintiff, the Report and Recommendation of the magistrate judge is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Doc. no. 8. This action is **DISMISSED** without prejudice for the reasons stated in the Report such as failure to comply with the magistrate judge's order to cure deficiencies and failure to either pay the filing fee or seek leave to proceed without prepayment of fees.

IT IS SO ORDERED this 20th day of July, 2021.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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¹ The court also stated this intention in its order of June 1, 2021. Doc. no. 12. However, plaintiff's motion at doc. no. 13 indicated plaintiff had not received the June 1, 2021 order.